

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Bryngelson Corp.,**  
Petitioner-Appellant,

v.

**Marshall County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 09-64-0277**  
**Parcel No. 11-02-380-033**

On June 23, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Bryngelson Corporation, submitted evidence in support of its petition and was self-represented by Berdette (B.O.) Bryngelson. The Board of Review designated attorney Brett Ryan of Willson & Pechacek, PLC, Council Bluffs, Iowa, as its legal representative. The Board of Review submitted evidence in support of its decision. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Bryngelson Corporation (Bryngelson) appeals from the Marshall County Board of Review decision reassessing its property located at 7 Westwood Drive, Marshalltown, Iowa. According to the property record card, the subject property consists of a one-story, frame office building having 4000 square feet of rentable area, a full basement, and 4200 square feet of paving. The improvements were built in 1976 and are situated on a 0.53 acre site. The real estate was classified as commercial on the initial assessment of January 1, 2009, and valued at \$157,050, representing \$68,600 in land value and \$88,450 in improvement value.

Bryngelson protested to the Board of Review on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b). In its opinion, the property is worth \$100,000, allocated \$38,636 to land value and \$61,364 in improvement value. The Board of Review granted the petition, in part, and reduced the assessment to \$136,750, representing \$51,450 in land value and \$85,300 in improvement value.

Bryngelson then appealed to this Board and reasserted its claim of over-assessment. It also asserted a claim based on inequitable assessment under section 441.37(1)(a). Since the claim of inequitable assessment was not raised before the Board of Review, this Board can not now consider this claim.

In a letter accompanying its appeal, Bryngelson contends the property is aging, the roof leaks, and the paving is sunken, deteriorating, and needed repairs. It also believes the storm water drainage ditch at the rear of the property lowers the property value. The property is only 25% rented and does not cash flow. Bryngelson reports it has incurred a loss on the building for the last three years, with an approximately \$7000 loss in 2008. Bryngelson indicated the adjacent property at 9 Westwood uses its driveway for egress and ingress, but it does not pay for maintenance or repairs.

At hearing, Mr. B.O. Bryngelson testified the ditch at the rear of the property is an eye sore, subject to flash flooding, and needs maintenance. He spoke to the city about the ditch problems without resolution. Bryngelson also stated the flash flooding causes his property to flood, and on average, the building is damaged three times a year as a result. They have to remove carpet and repaint when it happens. Bryngelson testified the adjacent property, although somewhat smaller, has an assessed value of only \$80,000 and is fully rented. He reports continued efforts to attract tenants by newspaper advertisements, signage, and reduced rent. He has not listed the property for lease or sale with a realtor.



Assessor Craig Madill testified on behalf of the Board of Review. He indicated he is aware of the problems with the subject property and has made adjustments to the assessment to reflect its deficiencies. He has removed all interior finish value from lower level because of the flooding and has not valued the shared drive. In his assessment, Madill gave the property a construction quality grade of 5, listed it in poor condition, gave 39% physical depreciation, and 50% economic condition to the parcel. The Board of Review further reduced the value by a 25% downward adjustment for topography. Madill presented sales data on two similar properties that were approximately the same age as the subject property. They were in superior condition, had less office square footage, and less land. He did not have knowledge of their occupancy or rental income. The sales prices per square foot were higher than the subject property's assessed value per square foot; however, it is difficult to tell if they are comparable properties. In addressing the difference between the assessed values of the subject property and a similar property at 9 Westwood, Madill testified the adjacent property was designated very poor condition, whereas the subject property is designated poor condition. After hearing about the subject property's deficiencies, Madill testified he would not object to changing its condition to very poor, as well. He estimated this would result in approximately \$6500 reduction in value.

Reviewing all the evidence, we find sufficient evidence to establish the subject property is assessed for more than authorized by law. We find the condition of the property should be lowered to very poor condition based on Bryngelson's testimony about the property. Madill also presented credible evidence to establish the fair market value of the subject property as of January 1, 2009, after this modification to its condition.

### *Conclusion of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act

apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The evidence supports a finding the Bryngelson property is assessed for more than its fair market value. The record includes credible evidence of the property's very poor condition and the value correction needed to reflect this inferior condition.


Therefore, we modify the Bryngelson property assessment as determined by the Board of Review. The Appeal Board determines the property assessment value as of January 1, 2009, is \$130,250, representing, \$51,540 in land value and \$78,800 in improvement value.


THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Marshall County Board of Review is modified as set forth herein.

The Secretary of the Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Marshall County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

Dated this 3 day of AUGUST 2010.

  
Jacqueline Rypma, Presiding Officer

  
Karen Oberman, Board Chair

  
Richard Stradley, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>8.3</u> , 20 <u>10</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other.
Signature	